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EXAMINER

MCCLELLAN, JAMES S

ART UNIT PAPER NUMBER

3627

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/487,719

Applicant(s)

GODDARD, OPHER

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-102 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,21-35 and 51-90 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-20,36-50 and 91-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Amendment

1. Applicant's submittal of an amendment was entered on March 26, 2003, wherein:
 - claims 1-102 are pending;
 - claims 2, 4, 21-35, and 51-90 have been withdrawn (10/09/02);
 - claims 1, 3, 5-14, 20, 36-38, and 40-44 have been amended; and
 - claims 91-102 have been added.

Drawings

2. Applicant's submission (3/26/03) of new drawing Figures 2 and 3 are acknowledged and approved for entry.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 38 recite the limitation "said second time period" in lines 2-3. There is insufficient antecedent basis for the limitation in each claim. The examiner recommends replacing "said second time period" with --a second time period--.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 5-12, 14-20, 36-42, 44-50, 91-100, 102, and 103 are rejected under 35

U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 6,269,343 (Pallakoff).

In regards to independent **claim 1**, Pallakoff clearly discloses a system for facilitating aggregate purchasing, the system comprising: **(a)** a database server system (13) for maintaining at least one purchasers group (see column 1, lines 45-49), said at least one purchasers group characterized by a predefined product designation and conditions for purchasing a product in accordance with said designation (see column 1, lines 56-59), said conditions including a first price and a quantity (see column 1, lines 56-59, “conditions include prices that depend on the amount of goods”), said database server (13) system being configured to interface sellers (see Figure 1, “Sellers 11a-x”) to said group such as to enable tendering by at least one seller (11) of at least said quantity to said group, thereby to enable individual purchasers to benefit from aggregated buying power (see column 1, lines 45-49); and **(b)** a plurality of user clients (see Figure 1, “Buyers’ Client Terminals 14a-x”), being at a disposal of a plurality of users (see Figure 1, “Buyers 15”) and being capable of communicating with said database server system (13), each of said plurality of user clients (14a-x) enabling a respective user (15a-x) thereof to join said at least one purchasers group, such that a user (15) of a respective one of said plurality

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of user clients (14) is entitled to purchase said designated product under said conditions for purchasing said designated product upon joining said at least one purchasers group; **[claim 3]** said at least one purchasers group is established by an operator of said database server (see column 2, lines 48-51); **[claim 5]** configured such that said plurality of user clients (14a-x) communicate with said database server system (13) via a communications mode selected from the group consisting of dialup communications and local area network communication (see paragraph that bridges columns 2 and 3); **[claims 6, 36]** said at least one purchasers group is maintained by said database server for a predetermined period of time (see column 4, lines 7-8); **[claims 7, 37]** said user (15) can join said at least one purchasers group only during a second period of time expiring prior to said predetermined period of time (see column 4, lines 7-8); **[claims 8, 38]** a user is entitled to purchase said designed product following termination of a second time period (see column 4, lines 7-8); **[claims 9, 39]** said conditions for purchasing said designated product are determined as a function of the number of members within said at least one purchasers group at the termination of said second time period (see column 11, lines 25-28); **[claims 10, 40]** said database server system (13; see column 7, lines 31-35) stores and provides on demand to each of said user clients (14a-x) information pertaining to said at least one purchasers group (for example, the number of buyers in the Buying Group; see column 6, line 60); **[claims 11, 41]** information pertaining to said at least one purchasers group includes information on said designated product and to said conditions for purchasing said designated product (see column 1, lines 56-59); **[claims 12, 42]** information pertaining to said at least one purchasers group includes information on a number of members on said at least on purchasers group (see column 6, line 60); **[claim 14]** said conditions for purchasing said designated product

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include said first price of said designated products, an updated price following said tendering if any terms of payment (see column 3, lines 44-65); **[claims 15, 45]** said designated product is a specific product from a specific manufacturer (see example on column 6, line 8 that states “200 Brand A widgets”); **[claims 16, 46]** said designated product is a service (see column 2, line 25); **[claims 17, 47]** said designated product is characterized by a specification (23; see column 3, lines 42-43); **[claims 18, 48]** said designated product includes a plurality of specific products bundled together as a single product package (Pallakoff allows users to buy more than one item which would be purchased as a bundle, see column 11, lines 7-37); **[claims 19, 49]** each of said plurality of user clients (14a-x) is a computer operating a web browser and further wherein said database server system (13) is in communication with the World Wide Web (see paragraph that bridges columns 2 and 3); **[claims 20, 50]** each of said user clients (14a-x) is a computer operating a dedicated software program (see column 3, lines 5-10); **[claim 44]** said conditions for purchasing said designated product include a maximum price of said designated products, a reduced price following tendering if any, and terms of payment (see column 3, lines 44-65); **[claim 91, 94]** said tendering is carried out in advance (see Figure 3) of setting up said purchasing group by issuing a schedule of prices for given quantity ranges (see column 3, lines 44-65); **[claims 92, 95]** said tendering is carried out at a predetermined time, provided said minimum quantity has been reached (see column 5, lines 16-37); **[claim 93, 96]** said tendering is carried out in advance of setting up said purchasing group by accepting for said group a seller offering a minimum price for said purchasing number (see column 5, lines 16-37); **[claim 102]** said product designation is an aggregation of products package (Pallakoff allows users to buy

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more than one item which would be purchased as an aggregation, see column 11, lines 7-37); and **[claim 103]** said quantity is at least two (see column 5, lines 29-32).

In regards to independent **claim 97**, Pallakoff clearly discloses a system for facilitating aggregate purchasing, the system comprising a server (13), the server comprising: a database (see column 7, lines 31-34) configured to maintain at least one purchasers group, said at least one purchasers group being characterized by a predefined product designation and conditions for purchasing said designated product, said conditions including a first price and a minimum purchase quantity (see column 1, lines 56-59); and an interface (see Figure 2) for interactively interfacing purchasers and sellers to said database (13), said database server system (13) configured, with said interface, to interface sellers to said group such to enable tendering by at least one seller of at least said quantity to said group, thereby to enable individual purchasers to benefit from aggregate buying power (see column 1, lines 45-49); **[claim 98]** said tendering is carried out in advance (see Figure 3) of setting up said purchasing group by issuing a schedule of prices for given quantity ranges (see column 3, lines 44-65); **[claims 99]** said tendering is carried out at a predetermined time, provided said minimum quantity has been reached (see column 5, lines 16-37); and **[claim 100]** said tendering is carried out in advance of setting up said purchasing group by accepting for said group a seller offering a minimum price for said purchasing number (see column 5, lines 16-37).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13, 43, and 101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pallakoff in view of U.S. Patent No. 6,418,415 (Walker et al.).

In regards to dependent **claims 13 and 43**, Pallakoff fails to expressly disclose providing on demand information to each user client on each member of said purchasers group. It is noted that Pallakoff discloses storing information on each member of the said purchasers group in a central database, but does not disclose providing the user information to each user client on demand.

Walker et al. teaches providing on demand information to each user client on each member of said purchasers group (see column 5, lines 33-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pallakoff with user information dissemination amongst user clients as taught by Walker et al., because providing user information on demand to each user will allow

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users to know their business partners and either approve or disapprove the inclusion of potential group members.

In regards to dependent **claim 101**, Pallakoff fails to expressly disclose said specification comprises a plurality of alternate products.

Walker et al. teaches providing a specification comprises a plurality of alternate products (1000; see Figure 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pallakoff with alternative product option as taught by Walker et al., because offering an alternative product provides sellers with the ability to fill a user request when a substantially equal substitute product is available.

Response to Arguments

9. Applicant's arguments filed March 26, 2003 have been fully considered but they are not persuasive.

On page 9, second paragraph, applicant notes that additional drawing figures have been added to overcome the drawing objections. Applicant's submission of new Figures 2 and 3 are approved for entry and have overcome the objection to the drawing.

On pages 9-11, applicant's arguments are moot in view of the new grounds of rejection that were necessitated by applicant's amendment on March 26, 2003.

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Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

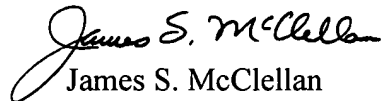
Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

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(703) 305-7687 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Patent Examiner
A.U. 3627

jsm
May 15, 2003